

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Rudy Mazzocchi et al. Attorney Docket: MVA1001USC8
Serial No.: 10/607,328 Group Art Unit: 3734
Filed: June 26, 2003 Examiner: Vy Q. Bui
For: METHOD AND DEVICE FOR FILTERING BODY FLUID

TRANSMITTAL LETTER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith are the following:

1. Supplemental Information Disclosure Statement (5 pages);
2. Form 1449 listing twenty-six (26) documents (2 pages); and
3. Copies of the non-U.S. listed documents (21 documents).

Please charge Deposit Account No. 16-2312 in the amount of \$180.00 to cover the fee under 37 C.F.R. § 1.97(c) for the submission of this Supplemental Information Disclosure Statement. It is believed that no additional fees are due in connection with this submission. However if this is incorrect, please charge any additional fees to Deposit Account No. 16-2312.

Respectfully submitted,

Dated: 1/31/07

By 

Customer No. 009561
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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22331-1450

Dear Sir:

Pursuant to Sections 1.56, 1.97, and 1.98 of Title 37 of the Code of Federal Regulations, the following information is set forth in compliance with Applicants' duty of disclosure, as well as the duty of others substantively involved in the preparation of the above-titled application.

The Applicants and others substantively involved in the preparation of the application are aware of the documents, cited on the enclosed PTO-1449 form and have attached electronic PDF copies of the listed documents.

The present statement reflects the direct knowledge of the undersigned and information disclosed to the undersigned by the Applicants and others substantively involved in the preparation of the present application pursuant to their duty under 37 C.F.R. § 1.56.

Applicants hereby notify the Office in accordance with MPEP § 2001.06(c) of the existence of litigation in which certain patents claiming priority to the same parent application (Serial No. 08/272,425) as the present application have been asserted against an infringer. Specifically, U.S. Patent Nos. 7,033,375, 6,989,019 and 6,949,103 have been asserted in counterclaims filed in May and June, 2006, (the "Litigation") against Boston Scientific Corporation and Boston Scientific SciMed, Inc. in Civil Action No. 05-651 filed in the United States District Court for the District of Minnesota. During the course of the Litigation certain allegations have been made by Boston Scientific that the

above-identified patents are invalid or that they were procured through inequitable conduct or fraud. Certain other arguments have been made by the parties to the Litigation regarding the proper construction of certain terms used in the claims of the above-identified patents. Applicants submit copies of certain documents generated during the course of the Litigation and which contain allegations of the types described above. These documents are set forth on the attached PTO-1449 form and also in the charts set forth below. In order to assist the Examiner with a review of these documents three charts are set forth below. These charts identify pages or portions of the cited documents which: 1) make allegations of invalidity (chart I), 2) make allegations of inequitable conduct or fraud (chart II), or 3) which set forth arguments as to the proper construction of claim terms (chart III). The reference to these pages or portions of the documents is meant only to assist the Examiner in reviewing the documents by providing a sample of relevant portions and is not meant to be a complete or exhaustive list of all portions of these documents which may be material to the prosecution of the present application. Further, the Litigation includes other documents not cited herein such as, for example, depositions of the inventors, depositions of expert witness and reports of expert witnesses. Applicants, unless these documents are designated confidential and the party that has assigned the designation is unwilling to change their designation, will supply any additional Litigation documents that the Examiner desires to review upon the Examiner's request. The public electronic record and some of the documents from the Litigation can be found at the PACER website (<http://pacer.psc.uscourts.gov>, follow the link to the Minnesota District Court and search for case number 05-651).

CHART I	
Plaintiffs' Reply to ev3 Inc.'s Amended Counterclaims and Plaintiffs' Counterclaims Thereto	Page 12 (paragraph 127) Page 15 (paragraph 142) Page 16 (paragraph 144)
Boston Scientific's Response to Interrogatory No. 18	Pages 1 to 4

CHART II	
Plaintiffs' Reply to ev3 Inc.'s Amended Counterclaims and Plaintiffs' Counterclaims Thereto	Pages 17 to 20 (paragraphs 149 to 171)
Boston Scientific's Response to Interrogatory No. 18	Pages 4 to 7

CHART III	
ev3's Preliminary Proposed Constructions of Claim Terms	Pages 6 to 8
Boston Scientific's Preliminary Proposed Constructions of Disputed Claim Terms	Pages 14 to 19
ev3, Inc.'s Opening Claim Construction Brief	Pages 8 to 15
Boston Scientific's Opening Brief Regarding the Proper Construction of the Disputed Claim Terms and Phrases from the Patents-in-Suit	Pages 19, 20, and 30 to 38
ev3 Inc.'s Response to Boston Scientific's Opening Claim Construction Brief	Pages 8 to 23
Boston Scientific's Rebuttal Brief Regarding the Proper Construction of the Disputed Claim Terms and Phrases from the Patents-in-Suit	Pages 2, 3, and 11 to 18
ev3 Inc.'s Supplemental Responsive Claim Construction Brief	Pages 1 to 10
Boston Scientific's Supplemental Reply Brief Regarding the Proper Construction of the Disputed Claim Terms and Phrases from the Patents-in-Suit	Pages 1 to 5
Boston Scientific's Proposed Claim Construction Order	Pages 2 and 4
Transcript of December 4, 2006 Markman Hearing (Volume I)	Pages 39 to 51, and 90 to 139

ev3's [Proposed] Order Construing the Claims of the Patents in Suit	Pages 1 to 5
November 1, 2006 Stipulation Letter Regarding Claim Construction	Pages 1 and 2
Plaintiff's Markman Presentation	Pages 16, 18, 32 to 45, and 78 to 80
Markman Hearing Argument of ev3	Pages 44 to 47, 97 to 108, and 114
ev3's Supplemental Filter Slides for Markman Hearing	Pages 1 to 32
ev3's Filter Argument (Markman Hearing)	Pages 1 to 32

Additionally, prior to assertion of the ev3 patents in the Litigation referenced above the action was originally commenced against ev3 Inc. on March 30, 2005 and alleged that products made and sold by ev3 Inc., the assignee of the present application, infringe certain Boston Scientific patents. In documents prior to the assertion of the ev3 patents in the Litigation set forth in Chart IV below, Boston Scientific asserted generalized statements related to merits of at least one of the above-identified patents.

CHART IV	
Boston Scientific's Memorandum of Law in Opposition to Defendant ev3's Motion to "Amend" Its Answer and Counterclaims	Pages 6 and 15
Boston Scientific's Opposition to ev3's Motion to Modify the Pretrial Scheduling Order and to Assert Claims of Patent Infringement	Pages 8 and 9

These documents also reference U.S. Patent No. 6,027,520. Applicants advise the Examiner that the '520 patent is currently involved in an interference (No. 105,517) with pending Application No. 09/790,220.

Further, Applicants would like to bring to the attention of the Office other issued patents and co-pending applications claiming priority to the same priority application as the pending application. These patents and co-pending applications are set forth on a

document entitled "08/272,425 Family Flow Chart" which is attached hereto and listed on the PTO-1449 form.

Applicants reserve the right to show, pursuant to 37 C.F.R. § 1.131 or otherwise, that any one or more of the documents cited on the PTO-1449 form is not prior art to the present invention.

Pursuant to the Manual of Patent Examining Procedure, Chapter 609, Applicants request that the Examiner consider each of the listed documents and initial and return to the undersigned a copy of the enclosed PTO-1449 form.

Please charge Deposit Account No. 16-2312 in the amount of \$180.00 to cover the fee under 37 C.F.R. § 1.97(c) for the submission of this Supplemental Information Disclosure Statement. It is believed that no additional fees are due in connection with this submission. However if this is incorrect, please charge any additional fees to Deposit Account No. 16-2312.

Respectfully submitted,

Dated: 1/31/07

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FORM PTO-1449	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY. DOCKET NO. MVA1001USC8	SERIAL NO. 10/607,328
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use several sheets if necessary)		APPLICANTS Rudy Mazzocchi et al.	
		FILING DATE June 28, 2003	GROUP 3734

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER						DATE	NAME	CLASSIFICATION	FILING DATE IF APPROPRIATE
/VB/	5	4	9	6	2	7	03/05/96	Termin et al.		
↓	5	4	9	6	3	3	03/05/96	Sierra et al.		
	5	5	4	9	6	2	08/27/96	Miller et al.		
	5	7	2	8	0	6	03/17/98	Enger		
/VB/	6	1	2	3	7	1	09/26/00	Amplatz		

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASSIFICATION	TRANSLATION	
				YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

/VB/		July 10, 2006 Plaintiffs' Reply to ev3 Inc.'s Amended Counterclaims and Plaintiffs' Counterclaims Thereto (25 pages) (Document No. 1).
		January 5, 2007 Boston Scientific's Response to Interrogatory No. 18 (7 pages) (Document No. 2).
		September 11, 2006 ev3's Preliminary Proposed Constructions of Claim Terms (64 pages) (Document No. 3).
		September 11, 2006 Boston Scientific's Preliminary Proposed Constructions of Disputed Claim Terms (25 pages) (Document No. 4).
		October 30, 2006 ev3, Inc.'s Opening Claim Construction Brief (720 pages) (Documents 5A to 5D; 5A pages 1 to 180 (180 pages), 5B pages 181 to 390 (210 pages), 5C pages 391 to 570 (180 pages), 5D pages 571 to 720 (150 pages)).
		October 30, 2006 Boston Scientific's Opening Brief Regarding the Proper Construction of the Disputed Claim Terms and Phrases from the Patents-in-Suit (648 pages) (Documents 6A to 6D; 6A pages 1 to 63 (63 pages), 6B pages 64 to 270 (207 pages), 6C pages 271 to 470 (200 pages), 6D pages 471 to 648 (178 pages)).
		November 13, 2006 ev3 Inc.'s Response to Boston Scientific's Opening Claim Construction Brief (201 pages) (Document No. 7).
		November 13, 2006 Boston Scientific's Rebuttal Brief Regarding the Proper Construction of the Disputed Claim Terms and Phrases from the Patents-in-Suit (128 pages) (Document No. 8).
/VB/		December 18, 2006 ev3 Inc.'s Supplemental Responsive Claim Construction Brief (25 pages) (Document No. 9).

/VB/		December 18, 2006 Boston Scientific's Supplemental Reply Brief Regarding the Proper Construction of the Disputed Claim Terms and Phrases from the Patents-in-Suit (16 pages) (Document No. 10).
		November 21, 2006 Boston Scientific's Proposed Claim Construction Order (4 pages) (Document No. 11).
		Transcript of December 4, 2006 Markman Hearing (Volume I) (175 pages) (Document No. 12).
		October 31, 2006 ev3's [Proposed] Order Construing the Claims of the Patents in Suit (6 pages) (Document No. 13).
		November 1, 2006 Stipulation Letter Regarding Claim Construction (4 pages) (Document No. 14).
		Plaintiff's December 4, 2006 Markman Presentation (100 pages) (Document No. 15).
		December 4, 2006 Markman Hearing Argument of ev3 (115 pages) (Document No. 16).
		December 21, 2006 ev3's Supplemental Filter Slides for Markman Hearing (32 pages) (Document No. 17).
		ev3's December 4, 2006 Filter Argument (Markman Hearing) (32 pages) (Document No. 18).
		December 6, 2005 Boston Scientific's Memorandum of Law in Opposition to Defendant ev3's Motion to "Amend" Its Answer and Counterclaims (20 pages) (Document No. 19).
		February 14, 2006 Boston Scientific's Opposition to ev3's Motion to Modify the Pretrial Scheduling Order and to Assert Claims of Patent Infringement (30 pages) (Document No. 20).
		08/272,425 Family Flow Chart (1 page) (Document No. 21).
/VB/		

EXAMINER

/Vy Bui/

DATE CONSIDERED

02/13/2008

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 606; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.